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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,031	02/15/2001	Tatsuo Tateno	2185-0514P-SP	5720

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EXAMINER

TOOMER, CEPHIA D

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 01/16/2002

7

Please find below and/or attached an Office communication concerning this application or proceeding.

T.D-7

Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-15 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-15 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☒ All ☐ Some* ☐ None of the:

- ☒ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____

☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachments

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 5+6
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Art Unit: 1714

DETAILED ACTION

Specification

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by GB 795573 .

GB teaches as process of producing fatty acid esters from natural oil by reacting the oils with an alcohol in the presence of a basic catalyst under supercritical conditions (see abstract in its entirety).

According, GB teaching all the material limitations of the claim, anticipates the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 1714

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over ES 2124166.

ES teaches a method of producing fatty acid esters by transesterification of vegetable or animal fats by use of a solid base catalyst at a temperature up to 260°C, and under pressure. The catalyst include calcium oxide and magnesium oxide (see abstract in its entirety).

ES differs from the claims in that it does not specifically teach that the process temperature exceeds 260°C. However, a prima facie case exists when the prior art range and the claimed range are close enough that one skilled in the art would expect that the prior art invention would possess the same properties.

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ullmann's (Transesterification of Triglycerides).

Ullmann teaches the transesterification of triglyceride by use of alkaline catalyst and alcohol at temperatures in the range of 220-250°C.

Ullmann fails to teach the specificity of the catalyst, however it would have been obvious to one of ordinary skill in the art to have selected the claimed catalyst because they are conventional alkaline catalyst and are one skilled in the art would expect them to perform their attendant function.

Claims 3-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stern et al (US 5,908,946) in view of Cahen (US 4,161,483).

Art Unit: 1714

Stern teaches transesterification of vegetable oil or animal oil with a C₁-C₅ alcohol in the presence of a zinc catalyst (see abstract). The reaction conditions are at a temperature of between 170 and 250°C and a pressure that is less than 100 bar (see col. 4, lines 50-64).

Stern differs from the claims in that he does not specifically teach that the catalyst is a nickel-containing catalyst. However, Cahen teaches that nickel catalysts are used in the hydrogenating of natural oils (see Cahen abstract; col. 2, lines 47-55).

It would have been obvious to one of ordinary skill in the art to have replaced the catalyst of Stern with a nickel catalyst because Cahen teaches that nickel catalysts reduce the amount of polyunsaturation in the compounds.

Claims 3 and 5-15 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Stern (US 5,908,946) in view of GB 795573.

Stern teaches transesterification of vegetable oil or animal oil with a C₁-C₅ alcohol in the presence of a zinc catalyst (see abstract). The reaction conditions are at a temperature of between 170 and 250°C and a pressure that is less than 100 bar (see col. 4, lines 50-64).


Stern differs from the claims in that he does not specifically teach that the catalyst is a nickel-containing catalyst. However, GB teaches that nickel catalysts are used in the hydrogenating of natural oils (see GB; entire abstract).

It would have been obvious to one of ordinary skill in the art to have replaced the catalyst of Stern with a nickel catalyst because Cahen teaches that nickel catalysts reduce the amount of polyunsaturation in the compounds.

Art Unit: 1714

The prior art made of record but not relied upon is cited for teaching the general state of the art.

Any inquiry concerning this communication should be directed to Cephia Toomer at telephone number (703) 308-2509.



Cephia D. Toomer

Patent Examiner-1714

C. Toomer/dh

January 7, 2002